

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ANTJUAN L. MARTIN,

Plaintiff,

vs.

CITY OF OKLAHOMA CITY, et al.,

Defendant.

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Case No. CIV-13-648-D

REPORT AND RECOMMENDATION

Plaintiff has filed an amended motion for leave to proceed *in forma pauperis* in conformance with 28 U.S.C. § 1915. Pursuant to an order entered by United States District Judge Timothy D. DeGiusti, this matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). Having reviewed said motion, the undersigned finds that Plaintiff has sufficient funds to prepay the filing fee of \$400.00. Because he does not qualify for authorization to proceed without prepayment of the filing fee, it is recommended that Plaintiff's motions, **ECF No. 7**, be **DENIED** and that he be ordered to pay the full \$400.00 filing fee for this action to proceed. 28 U.S.C. § 1915(a)(1). *Lister v. Department of the Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005) (magistrate judge should issue a report and recommendation when denying motion to proceed *in forma pauperis*). On July 8, 2013 this Court entered an order, ECF No. 4, requiring the Plaintiff to provide more detail regarding income. The Plaintiff filed an Amended Motion, ECF No. 7, on July 17, 2013. Although the amended motion doesn't directly address the deficiencies detailed in the

Court's order, Plaintiff does more specifically detail his total income. The Plaintiff indicates he is employed earning \$2,508.00 in net monthly income and his wife is employed earning approximately \$1,800.00 in net monthly income. For a total net monthly income of \$4,308.00. His detailed monthly expenses total \$2,891.00.

It is recommended that this action be dismissed without prejudice to refiling unless Plaintiff pays the \$400.00 filing fee in full to the Clerk of the Court within **twenty (20) days** of any order adopting this Report and Recommendation.

Plaintiff is advised that he may file an objection to this Report and Recommendation with the Clerk of this Court by **August 5, 2013**. Plaintiff is further advised that failure to timely object to this Report and Recommendation waives the right to appellate review of both factual and legal issues contained herein. *Moore v. United States*, 950 F. 2d 656 (10th Cir. 1991).

This report and recommendation terminates the referral to the undersigned Magistrate Judge unless and until the matter is re-referred.

ENTERED on July 22, 2013.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE